



**THE ATTORNEY GENERAL  
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON  
ATTORNEY GENERAL**

August 4, 1959

Honorable Charles J. Lieck, Jr.  
Criminal District Attorney  
Courthouse  
San Antonio, Texas

Opinion No. WW-681

Re: Constitutionality of  
Senate Bill No. 193,  
Acts 56th Legislature,  
Regular Session, 1959,  
Chapter 27, Page 52,  
relating to appointment  
and salaries of court  
reporters in certain  
counties.

Dear Mr. Lieck:

You have requested an opinion on the constitutionality of Senate Bill No. 193, Acts 56th Legislature, Regular Session, 1959, Chapter 27, Page 52, providing for the appointment and salaries of court reporters in counties having a population of not less than three hundred sixty thousand (360,000) nor more than six hundred twelve thousand (612,000), according to the 1950 Federal Census, as follows:

"Section 1. In all counties in the State of Texas having a population of not less than three hundred sixty thousand (360,000) nor more than six hundred twelve thousand (612,000), according to the 1950 Federal Census, the Judge of each District Court, civil and criminal, and the Judge of each County Court at Law, civil or criminal, shall appoint an official shorthand reporter for such court. Such appointment shall be evidenced by an order entered on the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the Judge of the Court in which such reporter serves. The compensation of such reporter shall be not less than

Seventy-five Hundred Dollars (\$7500.00) nor more than Eighty-five Hundred Dollars (\$8500.00) per annum; such compensation shall be determined, set, and allowed by the judge of such court or courts within such minimum and maximum compensation authorized hereby; in addition to compensation for transcript fees as provided by law; . . ."

Senate Bill No. 193, was enacted and is constitutional under the provisions of Section 1 of Article V of the Constitution of Texas, which provides in part:

"The judicial power of this State shall be vested in one Supreme Court, in Courts of Civil Appeals, in a Court of Criminal Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

". . .

"The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the District and other inferior courts thereto."

In Tom Green County v. Proffitt, 195 S.W. 2d 845 (Tex. Civ.App. 1946), the Court in ruling on a similar Act, Article 2326, Vernon's Civil Statutes, prescribing salaries for various court reporters, held in referring to Section 1, Article V of the Constitution of Texas:

"This provision has been construed as authorizing local or special laws affecting the functioning of the different courts throughout the State:

". . .

"In so far as H.B. 555 relates to district court reporters it deals with state employees. In so far as it relates to reporters of county courts at law it provides as an incident for the functioning of courts which the Legislature creates under express authority of Art. V, Sec. 1."

Hon. Charles J. Lieck, Jr., page 3 (WW-681)

In line with the decision of the Texas Court of Civil Appeals in Tom Green County v. Proffitt, and Attorney General's Opinions R-2386 (1951), R-2459 (1951) holding that district court reporters are state employees and that county court at law reporters may be regulated under the power which the Legislature has to create such courts, it is evident that Senate Bill 193, does not conflict with Section 56, Article III of the Constitution of Texas, which provides among other things that the Legislature shall not pass any local or special laws creating offices or prescribing duties of officers in counties, or regulating affairs of counties, unless some other section of the Constitution authorizes such an Act. Therefore, it is our opinion that Senate Bill No. 193 is constitutional.

SUMMARY

Senate Bill 193, Acts 56th Legislature, Regular Session, 1959, Chapter 27, Page 52, regulating the appointment and salaries of district and county court at law reporters in counties having a population of not less than three hundred sixty thousand (360,000) nor more than six hundred twelve thousand (612,000), according to the 1950 Federal Census, is constitutional under Section 1 of Article V of the Constitution of Texas, and does not conflict with Section 56 of Article III of the Texas Constitution.

Yours very truly,

WILL WILSON  
Attorney General of Texas



By  
John C. Steinberger  
Assistant

JCS:rm:me

APPROVED:

OPINION COMMITTEE  
Geo. P. Blackburn, Chairman

Wallace Finfrock  
Linward Shivers  
Joseph G. Rollins, Jr.  
L. P. Lollar  
Robert G. Scofield

REVIEWED FOR THE ATTORNEY GENERAL  
BY: Leonard Passmore